

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**ALBERT THEODORE BOLINGER
AND PEGGY LOUISE BOLINGER**

RESPONDENTS,

**v.
CLARKS FORK MUTUAL
INSURANCE COMPANY**

APPELLANT.

DOCKET NUMBER WD78832

DATE: April 12, 2016

Appeal From:

Moniteau County Circuit Court
The Honorable Donald L. Barnes, Judge

Appellate Judges:

Division One: Lisa White Hardwick, Presiding Judge, Victor C. Howard, Judge and Gary D. Witt, Judge

Attorneys:

James S. Manning, Harrisonville, MO, for respondents.

Bradley C. Letterman and Woodrow R. Trowbridge III, Jefferson City, MO, for appellant.

MISSOURI APPELLATE COURT OPINION SUMMARY

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**ALBERT THEODORE BOLINGER
AND PEGGY LOUISE BOLINGER,**

RESPONDENTS,

**v.
CLARKS FORK MUTUAL
INSURANCE COMPANY,**

APPELLANT.

No. WD78832

Moniteau County

Before Division One: Lisa White Hardwick, Presiding Judge, Victor C. Howard, Judge and Gary D. Witt, Judge

Appellant Clarks Fork Mutual Insurance Company ("Clarks Fork") appeals from summary judgment entered in favor of Respondents Albert and Peggy Bolinger (collectively the "Bolingers") on their petition alleging breach of an insurance contract. Clarks Fork insured a farm owned by the Bolingers on which three turkey barns were located. The Bolingers allege that Clarks Fork breached their contract by refusing payment on that policy when two of the three turkey barns collapsed due to weight of snow and ice. Clarks Fork denied coverage, claiming the policy did not cover damage caused by the weight of snow and ice. The parties filed cross-motions for summary judgment. The court denied Clarks Fork request for summary judgment and granted summary judgment in favor of the Bolingers. Clarks Fork appeals.

REVERSED AND REMANDED

Division One holds:

- (1) The trial court erred in finding that the Bolingers were entitled to summary judgment because coverage was dependent on controverted material issues of fact that were unresolved.
- (2) The trial court erred in entering summary judgment in favor of the Bolingers without consideration of Clarks Fork's affirmative defenses.

Opinion by Gary D. Witt, Judge

April 12, 2016

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